

IN THE UNITED STATES DISTRICT COURT FOR DISTRICT OF MARYLAND
SOUTHERN DIVISION

RUSSELL DAVIDSON,
individually and for the
Use and Benefit of Zurich
American Insurance Company
13134 Pate Road West
Jacksonville, FL 32226

Plaintiff

vs.

Case No.: _____

SCAFFOLD RESOURCE, L.L.C.
4240 Headwaters Lane
Olney, MD 20832

Serve On:
Edward S. Marin, Esq.
Suite 1200
7101 Wisconsin Avenue
Bethesda, MD 20814

and

CHARLES WEISS
& ASSOCIATES, INC., on its
own behalf and trading as
SCAFFOLD RESOURCE
4240 Headwaters Lane
Olney, MD 20832

Serve On:
Charles Weiss
4240 Headwaters Lane
Olney, MD 20832

Defendants

COMPLAINT

Russell Davidson, individually and for the use and benefit
of Zurich American Insurance Company, Plaintiff, by Wilson &
Parlett and Robert Earl Wilson, his attorneys, sues Scaffold

Resource L.L.C., and Charles Weiss & Associates, Inc., on its own behalf and trading as Scaffold Resource, Defendants, and, for cause, says:

COMMON FACTS

1. This Court has jurisdiction pursuant to Title 28 U.S.C. Section 1332 in that there is diversity of citizenship between the Plaintiff and all Defendants and the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

2. The Plaintiff, Russell Davidson, individually and for the use and benefit of Zurich American Insurance Company, is an adult resident of the State of Florida.

3. The Defendant, Scaffold Resource, L.L.C., is a corporation incorporated under the laws of the State of Maryland and having its principle place of business in the State of Maryland.

4. The Defendant, Charles Weiss & Associates, Inc., on its own behalf and trading as Scaffold Resource, is a corporation incorporated under the laws of the State of Maryland and having its principle place of business in the State of Maryland.

5. On or about January 9, 2003, Plaintiff was working for his employer, Thompson Industries Services, Inc., at a job site at the Patuxent River Naval Base, State of Maryland.

6. On said date, while Plaintiff was working as aforesaid, he was inspecting the interior of a fuel tank and, while doing

so, was standing and walking on a scaffolding erected inside the fuel tank to provide a platform for the Plaintiff and other workmen to do their jobs.

7. Defendants, Scaffold Resource, L.L.C., and Charles Weiss & Associates, Inc., on its own behalf and trading as Scaffold Resource, at all times pertinent hereto, had erected, maintained, cared for, and managed said scaffolding and were responsible for its continued maintenance.

8. On said date, said scaffolding was defective and dangerous in that several wooden planks were missing located near the center of the platform, and Defendants had failed to erect railings around the hole in the scaffolding created thereby to safeguard the Plaintiff and other workmen from falling through the scaffolding.

9. On said date, as Plaintiff was in the course of his employment for his employer, he fell through the hole created by the missing planks and was injured thereby.

10. Zurich American Insurance Company was the insurer of Plaintiff's employer and as such, paid Workers' Compensation benefits as required by law.

11. The Plaintiff is obligated by law to reimburse Zurich American Insurance Company the amount of its resultant Workers' Compensation lien for which the Plaintiff brings this action on his own behalf and for the use and benefit of Zurich American Insurance Company.

COUNT I (Negligence)

In this, the first Count of the Complaint, the Plaintiff, Russell Davidson, individually and for the use and benefit of Zurich American Insurance Company, sues the Defendants, Scaffold Resource L.L.C., and Charles Weiss & Associates, Inc., on its own behalf and trading as Scaffold Resource, for negligence, and says:

12. Plaintiff incorporates the allegations contained in Paragraphs 1 through 11 (Common Facts) into this Count.

13. At all times pertinent hereto, the Defendants, and each of them, owed a duty to the Plaintiff and to others to erect, maintain, care for and manage said scaffolding in a safe manner.

14. The Defendants, and each of them, were negligent in that they did not adequately erect, maintain, care for and manage said scaffolding in a safe manner in that they failed to erect said scaffolding properly, failed to maintain it properly, failed to manage it properly, failed to care for it properly, and failed to post or adequately display warnings, signs, guards, railings or other devices intended to alert and protect the Plaintiff and other workers from the danger posed by the missing planks in the floor of the scaffolding.

15. As a direct and proximate result of the negligence of the Defendants, and each of them, the Plaintiff was seriously,

painfully and permanently hurt, injured and wounded in and about his body and limbs; he suffered and sustained, and will continue to suffer, a severe and permanent shock to his nerves and nervous system with great physical pain and mental anguish; he was precluded from performing his customary duties and from engaging in his usual activities and pursuits, and he will, in the future, be prevented from engaging in such activities and pursuits; he was, is and will be required to seek the services of physicians, hospitals and surgeons; he has incurred and will continue to incur expenses for said medical treatment as aforesaid; he has sustained and will continue to sustain and lose time from his employment; and, he has sustained other damages and losses, all to his great damage and loss.

16. That the Plaintiff avers that all of his damages, past, present and future were, are, and will be due solely to and by reason of the negligence of the Defendants, and each of them, without any negligence or want of due care on the part of the Plaintiff contributing thereto.

WHEREFORE, the Plaintiff, Russell Davidson, individually and for the use and benefit of Zurich American Insurance Company, claims damages in the amount of One Million Dollars (\$1,000,000.00) and the costs of this action against the Defendants, Scaffold Resource, L.L.C., and Charles Weiss & Associates, Inc., on it own behalf and trading as Scaffold Resource.

COUNT II (Premises Liability)

In this, the second Count of the Complaint, the Plaintiff, Russell Davidson, individually and for the use and benefit of Zurich American Insurance Company, sues Defendants, Scaffold Resource, L.L.C., and Charles Weiss & Associates, Inc., on its own behalf and trading as Scaffold Resource, and for cause, says:

17. Plaintiff incorporates the allegations contained in Paragraphs 1 through 11 (Common Facts) into this Count.

18. The Defendants, and each of them, were under the obligation to exercise due care to invitees on their premises, the said scaffolding.

19. The Defendants, and each of them, knew, or should have known, on the date of this occurrence, that said premises, the said scaffolding, were dangerous and defective.

20. The duty to exercise due care required that the Defendants, and each of them, institute an adequate program of maintenance and/or preventive maintenance; to adequately inspect; to provide other safety precautions and procedures; and to warn the Plaintiff and other invitees of the defective and dangerous condition known by the Defendants, and each of them, and unknown to the Plaintiff and other invitees, or to correct same.

21. The Defendants, and each of them, failed to exercise due care as aforesaid and failed to warn the Plaintiff of the

existence of said dangers and defective condition or to correct same.

22. As a direct and proximate result of the negligence of the Defendants and each of them, the Plaintiff was seriously, painfully and permanently hurt, injured and wounded in and about his body and limbs; he suffered and sustained, and will continue to suffer, a severe and permanent shock to his nerves and nervous system with great physical pain and mental anguish; he was precluded from performing his customary duties and from engaging in his usual activities and pursuits, and he will, in the future, be prevented from engaging in such activities and pursuits; he was, is and will be required to seek the services of physicians, hospitals and surgeons; he has incurred and will continue to incur expenses for said medical treatment as aforesaid; he has sustained and will continue to sustain and lose time from his employment; and, he has sustained other damages and losses, all to his great damage and loss.

23. The Plaintiff avers that all of his damages, past, present and future were, are and will be due solely to and by reason of the liability of the Defendants, and each of them, pursuant to the doctrine of premises liability and without any negligence or want of due care on the part of the Plaintiff, Russell Davidson, individually and to the use and benefit of Zurich American Insurance Company, contributing thereto.

WHEREFORE, Plaintiff, Russell Davidson, individually and for the use and benefit of Zurich American Insurance Company claims damages in the amount of One Million Dollars (\$1,000,000.00) and the costs of this action against the Defendants, Scaffold Resource, L.L.C., and Charles Weiss & Associates, Inc., on it owns and trading as Scaffold Resource.

Respectfully submitted,

WILSON & PARLETT

Robert Earl Wilson
Federal Bar No. 00272
Attorneys for Plaintiff,
Russell Davidson, individually
and for the use and benefit of
Zurich American Insurance Company
14803 Pratt Street
Upper Marlboro, MD 20772
(301) 952-1311

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4240 Headwaters Lane
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Defendants

JURY DEMAND

Russell Davidson, individually and for the use and benefit
of Zurich American Insurance Company, Plaintiff, demands a trial
by jury on all issues raised in his Complaint.

Respectfully submitted,

WILSON & PARLETT

Robert Earl Wilson
Federal Bar No. 00272
Attorneys for Plaintiff,
Kathryn Wilder
14803 Pratt Street
Upper Marlboro, MD 20772
(301) 952-1311